

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15446 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

JAYANTIBHAI GATORBHAI PATEL

Appearance:

1. Special Civil Application No. 15446 of 2004
MR ASHISH M DAGLI for Petitioner No. 1
MR GK RATHOD for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 1
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CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 24/02/2005

ORAL JUDGEMENT

At the request of Mr.Ashish M. Dagli, learned

advocate for the petitioner the matter is taken up for final disposal. Mr.Dagli, learned advocate for the petitioner-Gujarat State Road Transport Corporation (hereinafter referred to as "the corporation") submitted that the learned Judge has committed an error in interfering with the punishment imposed on the respondent workman with respect to the incident of 17.07.1993 in which initially the respondent workman was dismissed from service by order dated 04.04.1994. But in the Departmental First Appeal the said punishment of dismissal was reduced. The respondent workman was ordered to be reinstated and punishment of stoppage of three increments with future effect was imposed. The first appellate authority was pleased to order the intervening period to be Leave Without Pay (LWP). The learned Judge of the Labour Court interfered with the order of the first appellate authority and has reduced the punishment to 'stoppage of one increment without future effect'.

2. Mr.Dagli, learned advocate for the corporation states that there are no justifiable reasons for the said interference, more particularly when the charge against the respondent workman was held as 'proved' by the learned Judge. He submitted that the learned Judge has without recording any cogent and convincing reasons for holding that the punishment of 'stoppage of three increments with future effect' is excessive and harsh, has interfered with the same, which is uncalled for and unwarranted. The learned Judge gave undue importance to a stray statement of the reporter (in the departmental proceedings), namely, 'in local buses road booking is not permissible'. Taking this to be the basis the learned Judge has treated the entire incident to be a simple breach of the said rule of 'No road booking in local buses'. The learned Judge has overlooked the real charge levelled against the respondent workman. The charge was that, 'having collected fare from three passengers, he had not issued tickets till the bus was checked." The learned advocate submitted that besides that it is also important that the learned Judge should not have lost sight of the fact that, 'the respondent workman had not challenged the legality and validity of the departmental inquiry'. That being so it was not open to the learned Judge to interfere with the order of punishment.

3. The learned advocate for the respondent workman submitted that the order of the learned Judge is in accordance with law and it does not warrant any interference at the hands of this Court. The learned advocate for the respondent could not convince this court

as to in what circumstances without there being challenge to the legality and validity of the departmental inquiry and without there being any cogent or convincing reasons the order of punishment could have interfered with.

4. In view of the aforesaid discussion this Court is of the opinion that the petition deserves to be allowed. The same is accordingly allowed. The judgement and award of the learned Judge is quashed and set aside. Rule is made absolute with no order as to costs.

(Ravi R. Tripathi, J.)

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